IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 1620 OF 2007

Chanda Silk Industries Pvt. Ltd. ..Petitioner
Vs.
State of Maharashtra and anr. ..Respondent

Ms. A.G. Bhaktwani for petitioner.
Mr. A.S. Shitole, APP for State.

CORAM: B.H. MARLAPALLE, J.

Date : August 30, 2007.

P.C.:

1. Heard Ms. Bhaktwani the learned counsel for the petitioner who had filed Criminal Case No. 733 of 2005 against the present respondent no.2 under Sections 406 and 420 of IPC. The learned Metropolitan Magistrate, at the first instance, was pleased to issue an order of process against the accused and, therefore, the accused filed Criminal Revision Application No. 190 of 2005. The learned Sessions Judge at Thane was pleased to allow the Criminal Revision Application and consequently the order of issuance of process came to be quashed and set aside, as per the Judgment and Order dated 27/7/2006 and this

order is being sought to be challenged after more than one year.

2. The learned Sessions Judge noted that the applicant was carried out business of garments and the accused is the Proprietor of the garment company. During the period from 9/8/2002 to 14/10/2002 the complainant had supplied fabrics on credit to the accused under their various invoices from time to time. The accused had received the fabrics and in respect of the same he remitted an amount of Rs.3,50,000/- to the complainant, leaving a balance of Rs.9,29,989/-. The payment was due by May, 2003 and when the balance amount was not received, the complainant sent a telegram on 21/5/2003 calling upon the accused to make the payment of the said amount. A legal notice followed subsequently and the accused neglected to pay the amount to the complainant. It is thus clear that the dispute between the parties for the recovery of the balance amount of Rs.9,29,989/- towards the supply of fabrics by the complainant to the accused as against the total supply of Rs.13,00,000/-. The transaction between the parties

is purely a business transaction and, therefore, for the recovery of the arrears is basically a civil dispute. The learned Sessions Judge rightly held that there was prima facie no element of causing inducement or making false promises so as to cheat the complainant. There was, prima facie, no case made out for the offences punishable under Sections 406 and 420 of IPC. The view taken by the learned Sessions Judge is a possible view and it cannot be termed as grossly erroneous or perverse and, therefore, no interference is called for in the same under Article 227 of the Constitution.

3. Hence, the petition is rejected summarily.

(B.H. Marlapalle,J.)